THE HON'BLE Dr. JUSTICE G. YETHIRAJULU

W.P.No.16641 of 1994

22nd September, 2005

Between:

The Executive Engineer (R&B),

Building Division, Maharanipeta (PO),

Visakhapatnam.

…. **Petitioner**

and

Sri S.Srinivas, s/o. S. Babu Rao,

D.No.26-7-3, Panda Street,

Visakhapatnam, and another

…. **Respondents**

THE HON'BLE Dr. JUSTICE G. YETHIRAJULU

W.P.No.16641 of 1994

ORDER:

This writ petition is filed by the petitioner seeking to call for the records of the award passed by the second respondent in I.D.No.104 of 1992, dated 02-02-1994 and to set aside the award by declaring it as illegal and without jurisdiction.

The first respondent worked with the writ petitioner as Technical Works Inspector from 01-09-1986 to 31-12-1987.

He claimed that he worked during the said period without any break of service and he was terminated by the writ petitioner from service without following the procedure prescribed under 25-F of the Industrial Disputes Act (for short 'the Act'). The first respondent five years after the alleged termination approached the second respondent through I.D.No.104 of 1992 and the second respondent after considering the evidence adduced by the first respondent passed an award directing the writ

petitioner to reinstate the first respondent into service with full back wages within one month from the date of receipt of a copy of the award. The writ petitioner being aggrieved by the order of the second respondent dated 02-02-1994 approached this Court through this writ petition and obtained an order of stay on condition of complying section 17-B of the Act.

The second respondent after considering the oral and documentary evidence arrived at a conclusion that though the first respondent asserted that he worked for more than 240 days during the relevant period, the writ petitioner did not place any material including the muster rolls, acquittance register to disprove the contention of the first respondent that he worked for more than 240 days. Since the writ petitioner failed to place any material to show that the first respondent did not work for 240 days in 12 calendar months, the second respondent rightly held that the writ petitioner failed to follow the procedure prescribed under 25-F of the Act and therefore, the second respondent directed the writ petitioner to reinstate the first respondent into service and also directed payment of back wages till the date of reinstatement.

The granting of back wages is purely discretionary and as the second respondent exercised the discretion in favour of the workman, I am not inclined to interfere with the impugned order. After going through the entire record, it is seen that there is no illegality in the order of the second respondent. Therefore, I do not find any ground to interfere with the order of the second respondent.

The writ petition is accordingly dismissed. No order as to costs.

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Dr.G.YETHIRAJULU, J

Date: 22nd September, 2005

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